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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,015	05/23/2001	Charles P. Tresser	CHA920010005US1	9978
23550	7590	05/19/2006	EXAMINER	
HOFFMAN WARNICK & D'ALESSANDRO, LLC			GREIMEL, JOCELYN	
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ALBANY, NY 12207			3624	

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/864,015	<b>Applicant(s)</b> TRESSER ET AL.	
	<b>Examiner</b> Jocelyn W. Greimel	<b>Art Unit</b> 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

1. Claims 1-34 are being examined.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-21, 23-28 and 30-34 rejected under 35 U.S.C. 102(b) as being anticipated by Madoff et al (US Patent Pub. No. 2002/0019795, hereinafter Madoff).
4. In reference to claims 1, 11, 15, 25 and 34, Madoff teaches the system, medium, process and method of an electric marketplace via a network with a market maker that receives orders for a series of call auctions from a plurality of nodes in the network (pg. 1, 0003), wherein each of the orders includes a time stamp from one of a plurality of agents residing within the network, and wherein each call auction is implemented at an end of a trading interval; the system executes a series of call auctions during sequential trading intervals (pg. 6, 0055-0057); a trading system that sets prices and processes orders for each call auction; and a time analysis system that examines each order submitted during a current trading interval to determine if the submitted order qualifies for the call auction at the end of the current trading interval (pg. 6, 0054-0057).
5. The system that processes a series of call auctions, each call auction occurring at an end of a trading interval with a plurality of network nodes that communicate market

information, wherein the market information includes orders submitted from market participants; a plurality of gateway agents that timestamp orders after they are submitted by the market participants to the network; and a market maker system that receives and executes orders over the network, wherein the market maker system determines if each order qualifies for the call auction at the end of the current trading interval by examining the timestamp for the order (pg. 1, 0005-0006; pg. 2, 0024; pg. 6, 0055-0057).

6. The system has means for receiving orders for a series of call auctions via a plurality of nodes in the network, wherein each of the orders includes a time stamp from one of a plurality of agents residing within the network, and wherein each call auction is implemented at an end of a trading interval, a means for setting prices and processing orders for each call auction; and a means for examining timing information for each order submitted during a current trading interval to determine if the submitted order qualifies for the call auction at the end of the current trading interval (pg. 1, 0005-0006 and 0014-0015; pg. 2, 0024; pg. 6, 0055-0057).

7. Additionally, broadcasting a price quote from a market maker over the network at a beginning of a current trading interval; distributing the price quote over a plurality of network nodes within the network (pg. 6, 0045-0055); receiving an order submitted from a participant who is in communication with one of the network nodes; time stamping the order when the order passes through a trusted node; delivering the order to the market maker; and examining the time stamp of the order to determine if the order qualifies for processing during the current trading interval (pg. 1, 0005-0006 and 0014-0015; pg. 2,

0024; pg. 6, 0055-0057). Additionally, comparing the timestamp with a first predetermined time set during the trading interval; comparing a time the order was received with a second predetermined time set during the current trading interval; and qualifying the order if both the timestamp is less than the first predetermined time and the time the order was received is less than the second predetermined time (pg. 6, 0055-0057).

8. In reference to claims 2-4, Madoff teaches a trading interval including a fixed amount of time; a trading interval including a variable amount of time defined by the trading system; and the trading system defining a trading cut-off time during each trading interval (pg. 2, 0021-0022).

9. In reference to claims 5-8, Madoff discloses a time analysis system qualifying orders by comparing the time stamp for each order with the trading cut-off time for the current trading interval; a trading system defining an effective endpoint for each trading interval based on a computational time of the market maker; a time analysis system further qualifying orders by comparing a time the order was received by the market maker with the effective endpoint of the current trading interval; and a trading system executing each order that qualifies for processing at the call auction of the current trading interval unless an order price does not meet a price fixed by the trading system (pg. 6, 0055-0057).

10. In reference to claim 9, Madoff teaches a trading system that places each order that does not qualify for processing into a queue for consideration during a subsequent

call auction (pg. 3, 0025-0027). In reference to claim 10, Madoff teaches a system for broadcasting price quotes to each of the nodes in the network (pg. 1, 0003-0006).

11. In reference to claims 12 and 13, Madoff teaches a means for examining timing information that compares a time the order was received with an effective endpoint set during the current interval to determine if the order qualifies for processing; and a means for examining timing information that compares a time the order was received with an effective endpoint set during the current interval to determine if the order qualifies for processing (pg.6, 0055-0057).

12. In reference to claims 14, 16-21 and 23-24, Madoff teaches: a means for broadcasting prices over the network (pg. 1, 0003-0006); an electronic exchange wherein the market participants submit order to the network from user interfaces that communicate with the network nodes (pg. 1, 0003-0006, pg. 1-2, 0015); an electronic exchange wherein the user interfaces comprise web browsers (pg. 1, 0003-0006 and 00015; pg. 2, 0017-0019); an electronic exchange wherein the user interfaces comprise cellular devices (pg. 2, 0016-0019; pg. 1-2, 0015); an electronic exchange wherein the market information further includes quote information established at a previous call auction (pg. 6, 0055-0057); an electronic exchange, further comprising means for ensuring that all network nodes receive quote information within a predetermined window of time (pg. 2, 0018); an electronic exchange, wherein the quote information is distributed over the network using Pub/Sub technology (pg. 2, 0017-0019); an electronic exchange, wherein the market maker qualifies each order if the timestamp for the order is less than a predetermined time set during the current trading interval (pg. 6, 0055-

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0057); an electronic exchange, wherein the market maker further qualifies the order by comparing a time the order was received by the market maker with a second predetermined time set during the current trading interval (pg. 6, 0055-0057).

13. In reference to claims 26-28 and 30-33, Madoff discloses the price quote being distributed using a Pub/Sub technology (pg. 2, 0017-0019); the order being submitted via a browser (pg. 1-2, 0015; pg. 2, 0017-0019); the order being submitted via a cellular device (pg. 1-2, 0015; pg. 2, 0017-0019); the examining step comparing a time stamp to a predetermined time set during the current trading interval (pg. 6, 0055-0057); a step of comparing a time the order was received by the market maker with a second predetermined time set during the current trading interval (pg. 6, 0055-0057); a step of processing the order if it qualifies, wherein the processing step includes the steps of determining if an order meets a price set by the market maker at the end of the current trading interval and executing the order at the end of the current trading interval (pg. 6, 0055-0057); a step of considering the order for processing during a subsequent interval if the order does not qualify (pg. 3, 0026-0027).

### ***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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15. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

16. Claims 22 and 29 rejected under 35 U.S.C. 103(a) as being unpatentable over Madoff et al (US Patent No. 2002/0019795) in view of Sheynblat et al (US Patent No. 6,839,021, hereinafter Sheynblat). Madoff discloses an electronic exchange implemented over a network with network nodes, gateway agents and a market maker system as discussed above. Madoff does not disclose the gateway agents obtaining times for the time stamps from a global positioning system. Sheynblat discloses obtaining times for time stamps from a global positioning system (col. 3, lines 9-67 – col. 4, lines 1-2). It would have been obvious to one with ordinary skill in the art to modify the electronic exchange implemented over a network with network nodes, gateway agents and a market maker system to include obtaining times for time stamps from a global positioning system because Sheynblat discloses using the times for time stamps from a global positioning system for use on a network, such as the Internet, or other types of computer networking systems (col. 12, lines 21-38).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn W. Greimel whose telephone number is (571)

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272-3734. The examiner can normally be reached on Monday - Friday 8:30 AM - 4:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jocelyn Greimel  
Examiner  
May 3, 2006



**HANI M. KAZIMI**  
**PRIMARY EXAMINER**